

W. T. PLANNING BOARD MEETING, AUGUST 28, 2006, 7:30 P.M.

PRESENT: Murray Frank, Susan Silva, David Douglas, Mark Yale, Ginny Jones,

ABSENT: Leah Smith

ALSO PRESENT FOR ALL OR PART OF THE MEETING: Ellie Wise, David Finklestein, Maureen White, Glenn Provost, Chris Horiuchi, Carol Hunter, Andrew Flake, Prudy Burt, Patrick Phear, Simone DeSorcy

MINUTES

Minutes of the July 17 and July 31, 2006 meetings were approved as written.

OLD BUSINESS

Site Plan Review, Driveway Location, Wise Single-Family Residence, Lamberts Cove Road, Map 11, Lot 21:

Murray noted that Board members had visited the staked property the week before. In the interim, Superintendent of Streets Richie Olsen had determined that the proposed driveway location was dangerous due to lack of sight lines (views exiting impeded by large oaks in road layout). Richie had proposed a different location, and the applicant agreed to it. Glenn Provost said that if the Board approved the location, he would record a plan showing the new location with an easement over it to reach the adjacent lot as well, still resulting in a single road cut for the 2 lots. Mark made a motion to approve the site plan for the house, and for the Board to visit the marked new driveway location. All in favor.

Discussion: Rattner/White Single-Family Residence, M6 L2.1 & 2: Murray said the Planning Board had asked Conservation Commission members to attend the meeting to discuss the referral of this project to the MVC. He noted that at the Land Use Planning Committee of the MVC almost unanimously referred the projects to the full Commission for a concurrence vote. Patrick Phear said that when the projects came before the Conservation Commission he recused himself because he is a neighbor. When he discussed the projects with the Planning Board, he did so as his role of Obed Daggett Road Commissioner.

Murray noted that the projects had been referred because the properties were subject to two previous DRI reviews, and once a DRI, always a DRI. In addition, the Board was concerned with the level of excavation and removal of materials, which will have impacts to the land, neighborhood, and regional roads system. The MVC checklist allows for this "discretionary" type of referral by town boards. The process at the MVC hearing was then discussed.

Ginny said that within the MVC staff report, the move of the existing house is mentioned but not the excavation necessary for that project. Murray said that the excessive size of the excavation, estimated at 3,500 cubic yards, is what got the Commissioners' attention. Maureen White (Mrs. Rattner) asked for a definition of excessive excavation.

Conservation Commission member Prudy Burt said that the horse is now out of the barn: the projects had been referred to the MVC, and the LUPC had recommended that the full Commission review it. She said that all of these cases could be made at that hearing. She

noted that this is a Planning Board referral, not the Conservation Commission's. She said she thought that the discretionary referral by the Planning Board was triggered by the level of excavation necessitating all the truck traffic on Obed Daggett Road, Indian Hill Road, and others. While of concern, this issue is outside her Commission's jurisdiction. She repeated that the excavation level was the main issue, not the size of the house. She distributed a chronology of the Conservation Commission's involvement on the site.

Patrick Phear said that the neighbors did not object to another neighbor building a house, as that was not their business. The neighbors are, however, concerned about the level of truck traffic on the narrow, shared, Obed Daggett Road. He noted that when he last spoke with the Planning Board he was nearly at the end of reaching an agreement as to how the fill would be removed from the site. Complexities were added to with the move of the original house. He said he wasn't certain who would be doing the major excavation. Contractor Andrew Flake said that he would be in charge, working with an excavating company he's dealt with for 20 years. Patrick said that knowing this helps; however, traffic and noise from large projects impact us all. He said that he is not laying blame, but wondering how we fix this in the future.

Mark said that the projects have been sent to the full MVC, so they are currently out of the Planning Board's hands. He said that the Board is limited as to the kinds of conditions it can impose on a single-family residence. He wondered whether the agreement that Patrick had negotiated with the Rattners fully addresses the concerns re. impacts on the roads. Perhaps the agreement could be accepted by the MVC as conditions of approval to minimize impacts on the infrastructure. He said that re. degradation of the environment, no quantities had been provided in terms of total amounts of fill to be removed, etc., so this can be addressed at the MVC. David agreed that once a project has been referred to the MVC, a local board cannot make any decisions.

Mark said that one LUPC member would like to see negotiations between the Board and the Rattners before the full MVC hearing. Murray asked what the ingredients of such a negotiation would be. Mark said it would be something that site plan review covers and would be enforceable. Prudy said she thought they had been referred because the Planning Board cannot condition these types of projects under site review.

Maureen White said she thought we were all in this together, and did not see what about these projects would be of concern to the MVC. Murray said he did not know what he could do to make the process easier for the MVC. He noted that after the LUPC meeting, one commissioner thanked the Board for referring the projects, saying it was appropriate to look at the regional impacts of a project this size.

Murray said that he would welcome an opportunity for Planning Board members to attend a Conservation Commission meeting. Prudy wondered what could be further clarified. Murray said it might be good if the Con Com also made a presentation at the

hearing. Prudy said she was not certain that the Con Com has any authority to work in that regard. She said that the Con Com had not referred this project or previous ones as the Con Com is not an elected board. It is appointed to administer the Wetlands Protection Act, and now, the West Tisbury Wetlands Protection Bylaw, and at the time it reviewed these projects, it did not have a local bylaw. Chris Horiuchi said that the Con Com had already approved the projects. Prudy said she was not denying that they had come to the Con Com, which had conditioned segments of the projects as they were presented. She noted that the Con Com has very narrow review authority, and that it had done what it could within its jurisdiction. She said it would be wonderful if a resolution could be found for the excavation/traffic impacts, but that the Planning Board has more authority to refer this to the MVC. She said that the Con Com could support the Planning Board in its referral, applauding its efforts, but would be careful to stay away from subjective issues out of its jurisdiction. Patrick said he felt a staging plan needed to be in place. Prudy agreed.

Murray noted that he had asked to be on the Selectmen's agenda to discuss the referral as there could be some resulting litigation. He read from a 1997 suit when Steven Rattner sued the Planning Board over an adjacent subdivision plan the Board approved which would result in a total of four residences on 80 acres. The discussion section states "The plaintiff introduced expert evidence as to the condition of Obed Daggett Road and that the increased traffic...from 3 additional residences will overburden and increase the danger on an already dangerous unimproved road." Murray said this shows the Rattners join the Board in being concerned about safety on the road.

Ginny said the Board cannot speculate regarding litigation. She noted that the plans for the house state it will be 25' 2", when the height limit within the Coastal District is 24 feet. David noted that this is not the Planning Board's jurisdiction, but the Building Inspector's.

Maureen White stated that all of the points in the letter to the MVC referring the projects had been resolved.

Susan read from a list of concerns she had regarding the projects. She said she would like to see energy efficient materials and appliances used, including solar; landscaping to break up the massing of the house as seen from the Vineyard Sound; using excavated materials on-site; using non-reflective glass; trimming the brush around the "S" curves to improve visibility. She said the largest impact was the excavation and its impact on the regional roads system that would go on for over two years. Maureen White said that most of these issues have been addressed.

Ginny noted that this conversation held no legal credence, but MVC review would allow for enforceable conditions. She said that Susan's previously state list included things that the Board routinely asks for when reviewing houses over 3,000 sq. ft., but cannot require them. She applauded the Rattners for any of the elements they were planning to include.

Prudy wondered why this conversation had not taken place previously. Maureen White said that the Board had already approved the project. Mark said that in 2003 the Board was asked to make a determination whether the current house site was a wooded or open terrain within the Coastal District; this was the Board's only role in the project until the Building Inspector referred the applications last month for site plan review because they are both over 3,000 sq. ft. This referral triggered the process. There was a consensus among Board members at the July 31, 2006 meeting that their hands were tied and that they must refer them to the MVC under "once a DRI, always a DRI." Ginny agreed that in 2004 the only question before the Board was whether it was a wooded or open landscape. She noted that at that time there was no discussion of moving the existing house. David said that the LUPC members deemed the potential impacts important enough to send the applications to the full Commission.

Board members directed Simone to draft a letter to the MVC clarifying that the referral was discretionary as well as "once a DRI..." The letter should also contain the types of enforceable conditions the Board would like to see applied, mainly memorializing the informal agreement the Rattners have with the road association. Other preferred conditions would include energy efficiency, native plantings, and alternatives to the amount of excavation.

Reid Silva, Possible Form A, Stoney Hill Road: Board members set a date to visit the proposed Form A to determine whether the road is adequate. It was discussed whether it would need to be referred to the MVC. Board members directed Simone to find out whether the MVC has an open space subdivision policy.

NEW BUSINESS

CPA Committee: Ginny reported on the CPA Committee, noting that an assistant has been hired.

The meeting was adjourned at 9:50 p.m.

Respectfully submitted,
Simone DeSorcy, assistant

Approved 9/25/06